

## **CHAPTER 7**

### **OPERATING AND MAINTENANCE FUND PROGRAM (O&M)**

#### **SECTION 700 Background and Purpose**

The 2002 Washington State Legislature passed SHB 2060 that requires county auditors to charge a \$10 recording fee on all recorded documents with the exception of those previously excluded from any fees. A portion of the revenue from the fee goes to the “Affordable Housing for All” Account. The purpose of the funds is to support operating and maintenance costs of housing projects, or units within housing projects, that are affordable to extremely low-income persons with incomes at or below 30 percent of the area median income and which require a supplement to rent revenue to cover ongoing operating expenses. The Operating and Maintenance (O&M) Fund Program subsidizes housing projects so that affordable housing is made available to a broader range of extremely low-income households than would be possible without such subsidy.

The legislation charged The Department of Commerce (Commerce) with the responsibility of administering the O&M Fund (described in RCW 36.22.178). The O&M Fund Program is part of the Housing Trust Fund (HTF) and program dollars support projects that have received capital dollars from the HTF.

##### **700.1 Operating and Maintenance Fund Focus**

The focus of funding from the O&M Fund Program is to address the gap between eligible operating and maintenance costs and project income related to units restricted to 30% AMI. Funds are granted only in amounts appropriate to the scope of the identified operating gap as determined by review of the project’s pro forma.

Commerce reserves the right to negotiate modifications in an awardees proposed project budget prior to executing a contract.

##### **700.2 Operating and Maintenance Fund Program Subsidy Types**

- *Long-term Budget Gap Funding* addresses but may not completely cover the gap between eligible operating and maintenance costs and project income for up to a 20-year commitment period.
- *One-Time Reserves* is a one-time deposit to a project’s Operating or Replacement/Maintenance reserve account.

In the past, the O&M Fund program provided Rent Buy-Down and 5-Year Budget Gap subsidy types that are currently not available to new applicants. The *Rent Buy-Down* lowers the rent level for targeted units then covers the difference in rent from the contracted level and the reduced level. *Five-Year Budget Gap* funding addresses but may not cover the gap between eligible operating and maintenance costs and project income for up to a 5-year commitment period.

#### **SECTION 701 Eligibility**

##### **701.1 Eligible Applicants**

All organizations with projects receiving or having received HTF funding as allowed in the HTF Guidelines and Procedure Handbook Chapter 202.1, Eligible Applicants.

### **701.2 Eligible and Ineligible Projects**

Commerce will fund HTF projects that have units restricted to extremely low-income households (30 percent and below of area median income), including seasonal farm worker projects and projects for persons with special needs (including disabilities and homelessness). Projects receiving Section 8, or that have units occupied by tenants receiving Section 8, are generally not eligible. Exceptions may be made if the project demonstrates a compelling need for O&M Fund Program subsidy, at the discretion of Commerce.

### **701.3 Tenant Income Certification**

Units for which this subsidy is intended must be occupied at entry by households that have gross annual household incomes at or below 30 percent of the area median income (AMI), as adjusted for household size. If household income increases to greater than 30 percent of the AMI, the GRANTEE is not required to increase rents or require the tenant to move; however, household income should be reviewed annually along with a review for potential rent increases.

To certify the income level for tenants occupying buy-down units, projects with HOME funds will use HUD's "Technical Guide for Determining Income and Allowances for the HOME Program." Projects with Low Income Housing Tax Credits will follow the Washington State Housing Finance Commission procedures. If the project is not a tax credit or HOME project, and project management requests further guidance, Commerce will provide direction under a separate attachment.

### **701.4 Tenant Rents**

Rents for O&M Fund Program subsidized units are based on what is affordable to a household with income at or below 30 percent AMI. At a minimum, GRANTEE must observe the [rent limits](#) published by the Washington State Housing Finance Commission for 30 percent set-aside units. Under no circumstances shall rents for O&M Fund Program subsidized units exceed the WSHFC rent limits for 30 percent AMI households.

Household income review should occur annually and the GRANTEE may adjust rental payments accordingly. If some households have little or no income when first moving into housing the rent may be waived or reduced temporarily only if there are sufficient funds available within the O&M Fund Program grant to cover the annual operating gap.

### **701.4 Combined Funders' Annual Report Compliance**

Projects applying to or receiving subsidy funding from the O&M Fund Program must submit their required Housing Trust Fund Combined Funders' Annual Report accurately completed and on time. If a project does not submit a required report, the O&M Fund Program subsidy will not be paid, and pending applications from the organization will be rejected.

### **701.5 Non-Discrimination Policy**

O&M Fund Program applicants shall neither deny services to, nor otherwise discriminate in the delivery of services, against any person who otherwise meets the eligibility criteria for the program on the basis of race, color, religion, gender, sexual orientation, age, national origin, citizenship, ancestry, marital status, physical or mental handicap, or because such person is a recipient of federal, state, or local public assistance.

## **SECTION 702 Application**

### **702.1 Application Process**

Applications will be accepted and evaluated, on a competitive basis, during the HTF Multifamily funding rounds. The application for O&M funding is part of the HTF Multifamily funding application and is located on the HTF [O&M Fund Program](#) website.

If a project is already in the HTF portfolio, and is in need of O&M funding subsidy, this project will need to go through a workout process with HTF Asset Management. The applicant or Commerce staff can request funding at the time of workout application. See [Chapter 5](#) of the HTF Handbook for more information about the workout process and application documents.

### **702.2 Evaluation Criteria & Funding Priorities**

The maximum O&M Fund Program award commitment will generally not exceed \$50,000 annually. The award amount is based on project need, other available operating subsidy, and is dependant on the number of units restricted to 30% AMI. At the discretion of Commerce staff, exceptions may be made if the project demonstrates a compelling need for O&M subsidy over \$50,000.

At application, the full amount of O&M needed should be applied for and this request will be evaluated and funded as follows:

- Applicants will first be awarded up to a maximum of \$35,000 of their funding request.
- If the funding request exceeds \$35,000 and once the project is placed-in-service, by a HTF Contract Manager, a second review of the projects' updated pro forma by the HTF/O&M Fund Program Manager will be undertaken and an additional award of up to \$15,000 may be made for a total maximum award of \$50,000 annually.
- The additional \$15,000 is only available to projects with committed funds from fundraising or other public operating subsidy equal to a minimum 25% of the total operating budget gap before any O&M subsidy is included in revenue. This additional amount is also dependant on need.

All applications for funding are evaluated according, but not limited, to the demonstration of need, the degree to which the program purpose is met, and the demonstrated ability of the applicant to implement and administer the program.

Other evaluation criteria:

- High occupancy record.
- Committed social services funding and support, if applicable.
- Good Department of Commerce track record including property management and maintenance record, timely payments, clean audit, and timely annual report submissions (for organizations with existing projects funded by HTF).
- Support of other non-state funders.
- Fund raising ability and track record.

Priority in selection will be given to the following types of projects:

- Projects where all units are restricted to households with incomes at or below 30 percent AMI (as opposed to mixed income projects).
- Projects that serve persons with special needs including persons with disabilities and homeless persons.
- Projects that provide temporary housing to seasonal farm workers.
- Projects that provide supportive services to persons with special needs.
- Projects with committed local financial support or fundraising dollars applied to the operating and maintenance of the project.
- Projects that do not have any Federal operating subsidies such as Section 8, HUD 202 or HUD 811 PRAC.

### **702.3 Operating Budget and Use of Funds**

At time of application, an operating budget in the required format must be submitted and will be used as the basis for the O&M Fund Program funding award. An updated operating budget will also be requested at the time of contracting to determine the final grant amount for the year. The budget should be an accurate depiction of the applicable expenses and income for the project. Do include all applied for or committed operating subsidies and funds raised for operating purposes as individual income line items in the budget.

### **702.4 Obtaining an O&M Grant Agreement**

The O&M Fund program will provide an annual grant agreement for O&M support after the project is placed in service. Funding will begin upon the date of execution of the O&M contract and will be prorated to reflect the remaining days of the calendar year. Project income, when generated, will be used first by the GRANTEE before drawing additional funds to complete activities included in the referenced application.

## **SECTION 703 Management Plan and Maintenance Plan**

A management plan is required for each application for the O&M Fund Program. The plan must be consistent with the guidelines in HTF Handbook Sections 205.4 and 403.6. See Exhibit 4-11 for an optional management plan template.

## **SECTION 704 Funding Limits and Eligible and Ineligible Uses:**

### **704.1 Funding Limits and Length of Commitment**

O&M Fund Program awards and grants are subject to availability of funding and to annual reviews that may result in adjustments to subsidy amounts or the discontinuance of the subsidy, at the discretion of Commerce. Length of commitment for funding is determined by Commerce and will generally not exceed a maximum of 20 years. Grants are renewable for a period not to exceed the original O&M award commitment period.

### **704.2 Eligible Uses**

- GRANTEE-paid utilities specific to the project but not specifically metered to an individual unit and are not the responsibility of the tenant. This includes water, sewer, garbage, electricity, gas, telephone, and internet.
- Property staff (on-site) salaries and benefits for all personnel directly associated with operating the building.

- Property management (off-site) including overhead and personnel costs that are necessary to operate the building but are not located at the site.
- Project administrative costs including: audit, accounting/CPA expenses, legal services, advertising and marketing, insurance, security, collection loss, real estate taxes, compliance fees, manager unit expense, property manager office supplies and rent, and travel related to the project.
- In-direct administrative costs of the nonprofit, not to exceed 5% of the current year's total project expense budget, and can include the following:
  - Administrative expenses such as human resources, general administration, and executive management costs.
  - Office supplies, rental equipment costs, and banking fees.
- On-going maintenance expenses such as janitorial supplies, maintenance contracts, maintenance of existing landscaping and security.
- Short-term maintenance expenses such as cleaning and repair or replacement for damage incurred during occupancy or unit turnover.
- The cost for a Capital Needs Assessment (CNA) of the project.
- Replacement Reserve additions, which are funds set aside for the replacement of, or major repair work on the component systems of a housing facility. The amount to be deposited in the replacement reserve account should be based on a capital needs assessment and on the analysis of all facility systems that will wear out over the life of the project, and the estimated costs of repairing and replacing those systems when they wear out. Funds from the maintenance reserve may only be used for capital assets that have a useful life to exceed 1 year. This includes but is not limited to major repairs to or replacement of appliances and major fixtures, windows and doors, plumbing and heating systems, and re-roofing. Short-term maintenance costs for items with a useful life of less than 1 year should be paid for with project cash flow or organizational sources and not replacement reserve funds.
- Operating Reserve additions, which are funds budgeted each year to cover unforeseen operating costs. The amount is normally to be equal to three months of all expenses during the first year of operations, excluding long-term replacement reserve items. The reserve will be allowed to accumulate until the amount is equal to 50 percent of a year's budget for operating costs, at which time O&M funds may no longer be used to fund the operating reserve. The operating reserve may also be used to pay for work that cannot be entirely funded by the replacement reserve

#### **704.3 Ineligible Uses:**

- The O&M Fund will not subsidize the costs of social services or community/project oriented events.
- Supplies provided for an individual's use to include hygiene products, house wares and furniture.
- Training costs.
- Closing costs.
- Depreciation.
- Amortized development costs.
- Private debt service.
- Costs not specifically listed as an eligible use, unless approved by Commerce staff in advance.

Eligible and ineligible uses of O&M Fund Program dollars are subject to change at the discretion of the HTF/O&M Fund Program staff.

#### **704.4 Reserve Funding**

The requirements and limits on replacement and operating reserves may be adjusted periodically, and/or for specific projects, by Commerce based on a review of the capital needs and operating risks of projects and of other public funder standards.

After the term of an O&M Fund Program award commitment ends, funds deposited to either operating or maintenance/replacement reserve shall continue to be governed by the eligible uses of reserves in the project's HTF contract.

### **SECTION 705 O&M Fund Program Payments**

#### **705.1 Subsidy Payments and Adjustments**

Subsidy is paid on a monthly basis as reimbursement for actual expenses, payments from Commerce can take up to thirty days to process. The amount of subsidy paid will depend on the expenses accumulated and cumulatively cannot exceed the approved annual amount. If receiving subsidy for operating or replacement reserves this can be paid lump sum style as long as the payment is deposited to a dedicated account and proof of deposit is provided to Commerce.

### **SECTION 706 O&M Fund Program Guidelines**

As stipulated by RCW 36.22.178, the Department of Commerce is to develop guidelines for the use of O&M Fund Program funds. The O&M Fund Program may issue new guidelines from time to time and new guidelines supersede all previous guidelines. If you are a GRANTEE with the O&M Fund Program, please visit the Commerce [O&M Fund Program](#) website to ensure that you have the most up-to-date program guidelines.